REMARKS

Claim Rejections

Claims 4 and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lee (US 6,354,193). Claims 4 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of either one of Lang (US 1,973,817) or Costa (US 5,117,748). Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Hoffert (US 3,331,308) and Golinger (US 2,708,871).

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

Claim Amendments

By this Amendment, Applicant has amended claim 4 of this application. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The primary reference to Lee teaches a roaster oven body (2) with a frame case (30) located on a top thereof, a plurality of rollers (31) located in the frame case (30), and a plurality of transmitting wheels (42) and drive wheels (44) located in the roaster oven body (2) and located on an exterior of the frame case (30).

The present invention comprises a frying pan (1), a metal rack (2) and a crack handle (3). The frying pan (1) has a handle (10) at one side for the holding by one hand. The rack (2) is mounted in the frying pan (1) and includes a plurality of cylindrical roller (20) pivotally arranged in parallel, a plurality of first gears (21) respectively fixedly mounted on one end of each of the cylindrical rollers (20), and plurality of second gears (22) respectively meshed between the first gears (21) at each two adjacent cylindrical rollers (20). One cylindrical roller (20) comprises a

roller shaft (200) extended out of the rack (2). The crack handle (3) or DC motor (4) is fastened to the roller shaft (200) for turning by hand or DC motor (4) to rotate the respective cylindrical roller (20) and to further drive the other cylindrical rollers (20) to rotate via the first gears (21) and the second gears (22).

In the present invention, all of the cylindrical rollers (20) and gears (21, 22) are fastened to be the rack (2). The rack (2) is mounted in the frying pan (1) and has only one roller shaft (200) extended out of the rack (2) and passed through a hole of the frying pan (1). The rack (2) is easy and quick to be separated with and taken out of the frying pan (1). Therefore, the frying pan (1) can be easy and quick to be clean.

In Lee the first gears (44), second gears (42), roller shafts (45), and turning mechanism (41) are fastened on the oven body. The rollers (31) are fastened on the frying pan (30). The handle (301) of the frying pan (30) are not used for holding the pan and hot dogs to leave the heat source by one hand. All rollers (31) extend out of the frying pan (30) and pass through holes (230) of the oven body to connect the first gears (44). The frying pan (30) is difficult to separate and take out of the oven body. The rollers (31) are also difficult to separate and take out of with the frying pan (30). Therefore, The frying pan (30) is not easily and quickly cleaned.

Lee does not teach the plurality of rollers, the plurality of first gears, and the plurality of second gears are removably located on an interior of the frying pan.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Lee does not disclose each and every feature of Applicant's amended claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Lee cannot be said to anticipate any of Applicant's amended claims under 35 U.S.C. § 102.

The secondary reference to Lang teaches a cooking utensil and is cited for teaching an elongated handle.

Lang does not teach the plurality of rollers, the plurality of first gears, and the plurality of second gears are removably located on an interior of the frying pan.

The secondary reference to Costa teaches rotary grill system and is cited for teaching an elongated handle.

Costa does not teach the plurality of rollers, the plurality of first gears, and the plurality of second gears are removably located on an interior of the frying pan.

The secondary reference to Hoffert teaches a rotisserie and is cited for teaching a crank.

Hoffert does not teach the plurality of rollers, the plurality of first gears, and the plurality of second gears are removably located on an interior of the frying pan.

The secondary reference to Golinger teaches a charcoal broiler grill and is cited for teaching a crank.

Golinger does not teach the plurality of rollers, the plurality of first gears, and the plurality of second gears are removably located on an interior of the frying pan.

Even if the teachings of Lee, Lang, Costa, Hoffert, and Golinger were combined, as suggested by the Examiner, the resultant combination does not suggest: the plurality of rollers, the plurality of first gears, and the plurality of second gears are removably located on an interior of the frying pan.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

> The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an

> alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

> As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

> We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Lee, Lang, Costa, Hoffert, or Golinger that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Lee, Lang, Costa, Hoffert, nor Golinger disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: January 16, 2007 By: _____
John R. Guice, Jr.
Reg. No. 39,699

TROXELL LAW OFFICE PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, Virginia 22041
Telephone: 703 575-2711
Telefax: 703 575-2707

CUSTOMER NUMBER: 40144